

REMARKS***Summary of the Amendment***

Upon entry of the above amendment, claims 21, 25, 26, 28, 36, 42, 45, and 46 will have been amended, and claims 22 and 24 will have been canceled without prejudice or disclaimer. Accordingly, claims 21, 23, and 25 – 46 currently remain pending.

Summary of the Official Action

In the instant Office Action, the Examiner has indicated claims 25, 27 – 31, and 33 – 35 contain allowable subject matter and would be allowable if presented in independent forms including all of the features of their base claims and any intervening claims. Further, the Examiner has objected to claims 45 and 46 and rejected claim 42 based upon informal/formal matters, has rejected claims 36 – 38 as being directed to two statutory classes of invention, and has rejected claims 21 – 24, 26, 32, and 36 – 46 over the art of record. By the present amendment and remarks, Applicant submits the objections and rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Acknowledgment of Allowable Subject Matter

Applicant gratefully acknowledges the Examiner's indication claims 25, 27 – 31, and 33 – 35 contain allowable subject matter and would be allowable if presented in independent forms including all of the features of their base claims and any intervening claims. While these claims have not been so presented at this time, Applicant reserves the right to present any of these claims in independent and allowable form in a subsequent action.

Claim Objections are Moot

Applicant submits the objections to claims 45 and 46 are moot in view of the instant

amendment to the claims.

As the Examiner's objections have been addressed, Applicant requests the Examiner reconsider and withdraw the objection to claims 45 and 46.

Formal Rejection Under 35 U.S.C. § 112, Second Paragraph, is Moot

Applicant submits the formal rejection of claim 42 under 35 U.S.C. § 112, second paragraph, is moot in view of the instant amendment to the claims.

As the Examiner's formal rejection has been addressed, Applicant requests the Examiner reconsider and withdraw the rejection to claim 42 and indicate this claim is fully in compliance with the requirements of the statute.

Rejection Under 35 U.S.C. § 101 is Moot

Applicant submits, as apparatus claim 36 has been amended to include the subject matter independent claim 21 rather than being expressly dependent from method claim 21, the rejection is now moot and should be withdrawn.

Accordingly, Applicant requests the Examiner reconsider and withdraw the rejection of claims 36 – 38 under 35 U.S.C. § 101, and indicate these claims are acceptable.

Traversal of Rejection Under 35 U.S.C. § 102(e)

Applicant traverses the rejection of claims 21, 23, 32, 36 – 38, 45, and 46 under 35 U.S.C. § 102(e) as being anticipated by KRISHNA et al. (U.S. Publication No. 2006/0022800) [hereinafter "KRISHNA"]. The Examiner asserts KRISHNA shows the recited features of the invention. Applicant traverses the Examiner's assertions.

By the present amendment, the features of claim 24 have been recited in independent claims 21, 36, 45, and 46. Moreover, the features of claim 22 have also been recited in independent claims 21 and 36. As the Examiner acknowledges KRISHNA does not anticipate

the features of claims 24 and/or 22, Applicant submits the applied art fails to provide an adequate evidentiary basis to support a rejection of anticipation under 35 U.S.C. § 102(e).

Accordingly, reconsideration and withdrawal of the anticipation rejection under 35 U.S.C. § 102(e) is respectfully requested.

Traversal of Rejection Under 35 U.S.C. § 103(a)

Applicant traverses the rejection of claims 24, 26, and 39 – 44 under 35 U.S.C. § 103(a) as being unpatentable over KRISHNA. The Examiner asserts KRISHNA shows the recited features of the invention. Applicant traverses the Examiner's assertions.

As discussed above, the features of claim 24 have been recited in independent claims 21, 36, 45, and 46. Applicant submits KRISHNA fails to render unpatentable the combination of features recited in the pending claims.

The Examiner refers to paragraphs [0168] and [0169] of KRISHNA and then asserts the features of at least claim 24 would have been obvious as “merely a design choice” to collect durations in the transmit operation for sending command instructions and to send the active readers instructions to execute the transmit operations for sending the command instructions of transmit/receive cycles spread over time and in order of decreasing duration of the transmit operations, beginning with the reader assigned the command instruction of the transmit/receive cycle having a greatest duration, a delay between executing one instruction and the next being equal to a difference between the durations of the transmit operations of the transmit/receive cycle command instructions to be transmitted by the corresponding two readers, up to executing the instruction associated with the shortest duration of the transmit operations.

However, Applicant submits this type of rejection is clearly improper since the Supreme Court has held that rejections on obviousness grounds cannot be sustained by mere conclusory

statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. _____ (2007), quoting *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006). In the instant Office Action, the Examiner has not analyzed the applied art to any particular extent to support his assertion the art of record would recognize the recited features of Applicant's amended independent claim 21 (which includes the features of now canceled claim 24) as a mere design choice.

Applicant notes, in accordance with independent claims 21, 36, 45 and 46, as currently amended, the active readers receive instructions to execute the transmit operations based on the collected durations. As subsequent features of the claims rely on the collected durations, i.e., the manner in which instructions are sent to active readers, Applicant submits this feature of the claims cannot properly be considered a mere design choice. Therefore, the Examiner's rejection of the pending claims is improper and should be withdrawn.

Moreover, while KRISHNA shows a method that sends active readers instructions to execute the transmit operation for sending the command instructions of transmit/receive cycles spread over time by coordinating the start of transmission of interrogators original scheduled at nearly the same times which are delayed, Applicant submits this disclosure fails to provide any articulable reasoning or rationale for modifying KRISHNA in the manner asserted by the Examiner. Further, Applicant notes KRISHNA fails to provide arguable disclosure that the readers operate according to a specific turnover which is determined from a duration of the command instruction transmitted by the reader.

Accordingly, Applicant submits KRISHNA fails to render unpatentable the combination of features recited in at least independent claims 21, 36, 45, and 46, as currently amended. Therefore, Applicant requests the Examiner reconsider and withdraw the rejection of claims 21 –

24, 26, 32, and 36 – 46 and indicate these claims are allowable.

Application is Allowable

Thus, Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully requests the Examiner to indicate allowance of each and every pending claim of the present invention.

Authorization to Charge Deposit Account

The undersigned authorizes the charging of any necessary fees, including any extensions of time fees required to place the application in condition for allowance by Examiner's Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in each of claims 21, 23, and 25 – 46. The claims have been amended to eliminate any arguable basis for rejection under 35 U.S.C. § 112. In addition, the applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

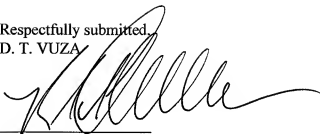
Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be

appropriate.

Respectfully submitted,

D. T. VUZA

A large, stylized handwritten signature in black ink, likely belonging to Neil F. Greenblum, positioned above a horizontal line.

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